

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAMIRO PEREDA, et al.,

Plaintiffs,

v.

GENERAL MOTORS LLC, et al.,

Defendants.

Case No. 21-cv-06338-JST

**ORDER GRANTING MOTION TO
STAY DISCOVERY**

Re: ECF No. 151

Now before the Court is a motion to stay discovery brought by Defendant General Motors LLC, General Motors Holding LLC, and General Motors Company (collectively, “GM”). ECF No. 151. The Court will grant the motion.

“The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 600 (D. Nev. 2011). “Had the Federal Rules contemplated that a motion to dismiss under Fed. R. Civ. P. 12(b)(6) would stay discovery, the Rules would contain a provision to that effect. In fact, such a notion is directly at odds with the need for expeditious resolution of litigation.” *Gray v. First Winthrop Corp.*, 133 F.R.D. 39, 40 (N.D. Cal. 1990). However, a district court does have “wide discretion in controlling discovery,” *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988), including staying discovery upon a showing of “good cause,” *See* Fed. R. Civ. P. 26(c)(1).

“Courts in this district have applied a two-pronged test to determine whether discovery should be stayed pending resolution of a dispositive motion.” *Yiren Huang v. Futurewei Techs., Inc.*, No. 18-CV-00534-BLF, 2018 WL 1993503, at *2 (N.D. Cal. Apr. 27, 2018). “First, a pending motion must be potentially dispositive of the entire case, or at least dispositive on the

issue at which discovery is directed.” *Id.* “Second, the court must determine whether the pending motion can be decided absent discovery.” *Id.* “If the court answers these two questions in the affirmative, a protective order may issue. However, if either prong of this test is not established, discovery proceeds.” *Pac. Lumber Co. v. Nat’l Union Fire Ins. Co. of Pittsburgh*, 220 F.R.D. 349, 352 (N.D. Cal. 2003). In applying this two-factor test, the court “must take a ‘preliminary peek’ at the merits of the pending dispositive motion to assess whether a stay is warranted.” *Tradebay*, 278 F.R.D. at 602. In conducting this analysis, “courts in this circuit sometimes also consider whether a stay of discovery will promote efficiency or conserve the parties’ resources, recognizing that engaging in discovery prior to adjudication of a strong motion to dismiss would represent a potential ‘waste of resources.’” *Kincheloe v. Am. Airlines, Inc.*, No. 21-cv-00515-BLF, 2021 WL 5847884, at *1 (N.D. Cal. Dec. 9, 2021) (quoting *Fields v. Roberts*, No. 1:06-cv-00407-AWI-GSA-PC, 2013 WL 5230034, at *1 (E.D. Cal. Sept. 16, 2013)).

“A party seeking a stay of discovery carries the heavy burden of making a ‘strong showing’ why discovery should be denied.” *Gray*, 133 F.R.D. at 40 (quoting *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975)). “The moving party must show a particular and specific need for the protective order, as opposed to making stereotyped or conclusory statements.” *Id.* (citations omitted).

After considering the relevant factors, the Court concludes that a brief stay of discovery is warranted until the pleadings are settled. The motion to dismiss contains several dispositive arguments, including dismissal of the non-California Plaintiffs’ claims for lack of personal jurisdiction, dismissal of the California Plaintiffs’ claims for failure to plausibly allege a defect in the vehicles, and an argument in favor of transferring the case to the Eastern District of Michigan. ECF No. 150.

The arguments raised in the motion to dismiss and opposition do not require discovery. ECF Nos. 150; 162. Plaintiffs’ only argument to the contrary is that “discovery could help to resolve the disputed issue of whether the Class Vehicles have a defect.” ECF No. 156 at 13. But whether the vehicles contain a defect is not an issue the Court will need to determine in deciding the motion to dismiss. Instead, the motion turns on whether Plaintiffs’ complaint “*plausibly*

1 *allege[s]* a defect in their vehicles.” ECF No. 150 at 14 (emphasis added). Further discovery is
2 not required to answer that question. Thus, both prongs of the two-factor test are satisfied.

3 The Court also finds that a stay will promote efficiency and conserve resources. The
4 complaint names 72 plaintiffs from 34 different state who represent “millions of . . . Class
5 members nationwide” whose cars are outfitted with allegedly defective software that “can prevent
6 seatbelt tightening and airbag deployment during certain types of crashes.” ECF No. 12 at 5; ECF
7 No. 143-1 at 2. The complaint spans 280 pages and includes multiple state-specific causes of
8 actions for 34 states. ECF No. 12 at 2-3. In fact, “due to the number of Plaintiffs, the number of
9 claims, and the complexity of the issues,” the parties requested, and the Court granted, a
10 stipulation enlarging the page limits for the motion to dismiss briefing. ECF Nos. 143-1, 148.
11 Even on a docket containing many large cases, this one stands out for its potential size.

12 The complexity of the case intensifies the burden of Plaintiffs’ broad discovery requests.
13 After encouraging the parties to identify “specific discovery that would take place while a motion
14 to dismiss was pending” and not litigate the issues “on an all-or-nothing basis,” the Court was
15 presented with a list of twelve broad discovery topics, seven of which require GM to identify
16 documents and information from 1999 to the present about a panoply of GM vehicles. ECF No.
17 151 at 9. According to GM, before engaging in discovery it would “first need to catalog all GM
18 branded trucks and SUVs for the past 23 years . . . and then determine the type of restraint system
19 installed in each of those vehicles.” *Id.* at 10. Based on an “initial assessment of the number of
20 possible vehicle configurations,” GM estimates “at least 400 different configurations for SUVs
21 and trucks for 15 of the 23 years of the purported class.” *Id.* GM would then need to locate
22 documents responsive to Plaintiffs’ twelve broad topics, such as “Documents sufficient to identify
23 the SDM software program and version used in each GM Trucks Group vehicle from MY 1999 to
24 the present.” ECF No. 151 at 9. Big cases often engender substantial discovery, and the Court
25 does not here suggest that Plaintiffs’ proposed discovery is not proportional to the needs of the
26 case. That question is not before the Court. The Court does find, however, that before embarking
27 on such discovery, it would benefit the parties and the Court to know what claims are at issue.

28 Furthermore, after reviewing the pending motion to dismiss and opposition, the Court finds

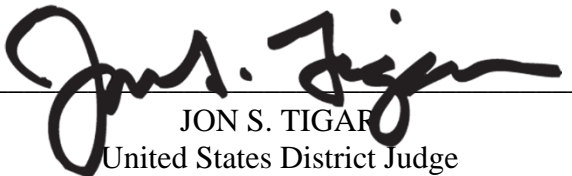
1 that many of GM's arguments are sufficiently well-stated that they deserve careful consideration
2 before allowing the parties to proceed with costly and time-consuming discovery. Moreover, any
3 prejudice to the Plaintiffs will be limited, as GM's motion to dismiss is scheduled to be heard in
4 less than 60 days.

5 **CONCLUSION**

6 For the foregoing reasons, GM's motion to stay discovery is granted. Discovery is stayed
7 until the pleadings are settled or upon further order of the Court.

8 **IT IS SO ORDERED.**

9 Dated: March 15, 2022

10 
11 JON S. TIGAR
United States District Judge